

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ALBERT D. MITCHELL,

Plaintiff,

v.

Case Number 06-13160

Honorable David M. Lawson

Honorable R. Steven Whalen

COUNTY OF WASHTENAW, STEVE  
ARMSTRONG, RICHARD ROWLEY,  
WASHTENAW COUNTY PROSECUTOR'S  
OFFICE, WASHTENAW COUNTY SHERIFF'S  
DEPARTMENT,

Defendants.

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**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,  
DISMISSING AS MOOT MOTION TO DISMISS FILED BY DEFENDANT  
WASHTENAW COUNTY PROSECUTOR'S OFFICE, AND REFERRING CASE BACK  
TO MAGISTRATE JUDGE**

Presently before the Court is the report issued on January 31, 2007 by Magistrate Judge R. Steven Whalen pursuant to 28 U.S.C. § 636(b), recommending that this Court dismiss as moot the motion to dismiss filed by the Washtenaw County Prosecutor's Office. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt

# 27] is **ADOPTED**, and the motion to dismiss filed by the Washtenaw County Prosecutor's Office [dkt # 7] is **DISMISSED AS MOOT**.

It is further **ORDERED** that the case is referred back to the magistrate judge in accordance with the order for general case management dated October 6, 2006.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: February 16, 2007

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 16, 2007.

s/Felicia M. Moses  
FELICIA M. MOSES